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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/716,802	11/18/2003	Timothy W. Girdin	8591-111	6775
36412	7590	02/27/2006	EXAMINER	
DUCKOR SPRADLING METZGER 401 WEST A STREET, SUITE 2400 SAN DIEGO, CA 92101-7915			HESS, DANIEL A	
			ART UNIT	PAPER NUMBER
			2876	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/716,802	<b>Applicant(s)</b> GIRALDIN ET AL.	
	<b>Examiner</b> Daniel A. Hess	<b>Art Unit</b> 2876	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 19-35 and 37 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-33 is/are allowed.
- 6) ☒ Claim(s) 34, 35 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

This action is in response to the Applicant's amendments and arguments of 11/21/2005 and filing of a Request for Continuing Examination (RCE) on 12/12/2005.

#### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 34, 35 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakatsuyama (US 2002/0143550) in view of Benkert et al. (US 6,796,497)

Re claim 34:

For the sake of clarity limitations of claim 34 are given below in italics, followed in each case by a discussion of how the limitations are met.

*A method of communication for a confined area of facility, comprising:*

The terms 'facility' and 'confined area' do not give strict limits. Nakatsuyama teaches broadly shopping using one's cell phone or other portable device. In this case, the 'confined area' is the area of coverage of the cell phone network. As for 'facility' this is not believed to be constricting: it does have to be, for example a building. Furthermore, this limitation is found in the preamble.

*providing a transmitter to an individual;*

In Nakatsuyama, a user employs a cell phone for purchasing for an electronic shopping cite. The cell phone then is the transmitter.

Nakatsuyama teaches (paragraph [0007]):

"The present invention provides a computer system for providing a voice-recognition-based Internet shopping interface between an end user's Internet-enabled device (e.g., an Internet-

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enabled Personal Digital Assistant [PDA], an Internet-enabled personal computer [PC], an **Internet-enabled cellular phone** or an interactive television) and a plurality of online shopping sites.”

*receiving personal identification information of the individual into at least one of a set of stations distributed throughout the confined area;*

As mentioned above, the stations are considered to be cell phone towers which are distributed throughout the area of coverage for a cell phone network.

A user will enter transaction information in the process of performing a transaction (see paragraph [0042] of Nakatsuyama:

“selectively linking, via Internet connections 18, end user's Internet-enabled device 10 [i.e. the cell phone] to one or more of the plurality of **online shopping sites** based on the end user's online shopping site requirements. Furthermore, the computer system includes a transaction facilitator 114 for facilitating (i.e., assisting) the purchase of a target product by an end user. Transaction facilitator 114 can assist in the collection of, for example, **credit card, debit card, other payment information, credit verification and shipping information.**”

Clearly in the process of all of this, the user will have to transmit personal identification information for completing the transaction to the cell phone tower (i.e. the station).

*receiving monetary deposit information for the individual;*

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*receiving transaction information from at least one cashless station;*

The process of carrying out the above transaction (see paragraph [0042] of Nakatsuyama) involves making payment, which means monetary deposit/payment information must be conveyed for an individual.

*scanning the transmitter at the cashless station;*

This is a newly added limitation. In the present case, a cell phone (transmitter) will be “scanned” at the cashless station (cell phone tower). Here, the term “scanned” is given broad meaning, as in, interrogated, communications – wise.

*creating transaction reports; and*

This limitation is lacking and is remedied by Benkert et al., see below.

*receiving account information at the cashless station via the transmitter.*

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In order to complete a transaction according to the system of Nakatsuyama, account information will need to be conveyed to the cashless station (cell phone tower) via the transmitter (cell phone).

Lacking is a teaching of creating transaction reports.

Benkert teaches a transaction card system. Transaction reports are a natural part of the Benkert et al. system: see figure 2, refs. 232 and 234.

In view of Benkert et al.'s teaching, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the old and well-known transaction reports (such as credit card statements) in conjunction with a user's purchases because in this way a user can be provided with a log of their purchases for bookkeeping, auditing, and security purposes.

Re claim 35: This is essentially like claim 34, except that it is recited as a set of software modules. It should be clear to any practitioner of ordinary skill in the art that each of the components of Nakatsuyama/Benkert operate based on software, including an Internet-enabled cell phone (transmitter), a cell phone tower (cashless station), the cellular network, and the transaction receiving and processing system (i.e. the online store).

Re claim 37: This is essentially like claim 34, except for a system. The system follows from the method of claim 34.

*Response to Arguments / Amendments*

Applicant's arguments and amendments, filed 11/21/05, with respect to claims 19-33 have been fully considered and are persuasive. The rejection of 19-33 has been withdrawn.

In particular, independent claims 19, 24 and 29 now recite the newly added limitation, "tracking the location of the members and for facilitating cashless spending throughout the confined area, wherein members of the group may be located using one of the location stations"

This limitation is neither taught nor suggested by the prior art of record. As applied, the prior art of record has included two pieces of prior art, Benkert et al., which shows a transaction account card system where there are individual member sub-accounts and Nakatsuyama (US 2002/0143550) which illustrates engaging in online transactions using just a cell phone.

But a cell phone system such as that of Nakatsuyama cannot properly be said to track the location of individuals using their cell phones. For one thing, the range of a cell phone tower can be very large so that knowing which tower a cell phone is connected will yield just a wide area of possible locations. For another thing, an online store which takes a cell phone credit card purchase will not know which cell phone tower was used in the transaction. To know this would require intense cooperation between the online store and the cell phone company, and even then it is possible -- particularly if someone is moving, that there will not be a single cell phone tower for the transaction.



Applicant's arguments and amendments, filed 11/21/05, with respect to claims 34, 35 and 37 have been fully considered but are not persuasive.

The only added limitation in these claims is "scanning the transmitter at the cashless station." Using the Examiner's scenario of credit card transactions using a cell phone as taught in Nakatsuyama and elsewhere, the cashless station is the cell phone tower. In this case, it can certainly be said that the cashless station (cell tower) scans the transmitter (cell phone).

***Allowable Subject Matter***

Claims 19-33 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:  
The applicant has amended the independent claims 19, 24 and 29 in a major way, overcoming the previous grounds of rejection.

The prior art of record teaches a system of receiving identification information and facilitating transactions based on receiving transaction information at one of a set of stations, receiving account information, and so on.

At the time of the invention, it was possible to make purchases with a credit card using a cell phone. In this type of scenario, local cell phone towers (or transmission units if they are not on towers) act as cashless stations which receive personal and transaction information facilitating a transaction, and which receive account information. There is a confined area because the zone of coverage for a cellular network is confined.

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However, the newly added limitation of

“tracking the location of the members and for facilitating cashless spending throughout the confined area, wherein members of the group may be located using one of the location stations”

is neither taught nor suggested by the prior art of record.

In the Examiner’s view, it is too much of a stretch to say a person could be located based on a cell phone tower.

GPS would not apply because the claims recite “...located using one of the location stations” whereas GPS performs location using triangulation and several cell towers.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel A. Hess whose telephone number is (571) 272-2392. The examiner can normally be reached on 8:00 AM - 5:00 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'D. A. Hess', with a long horizontal stroke extending to the right.

Daniel A Hess  
Examiner  
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2/18/06